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By M. MAC LEAN.

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For the Farmers' Gazette.

The following decision, made by Judge Earle, at the Spring session of the Court of Common Pleas held for Marlborough District, will, doubtless, interest most of your readers, and it is therefore sent to you for publication, if you think proper to give it a place in your paper.

The State, vs.
George Bristow,
Sheriff.

A motion was made before Judge Earle, for a rule against the defendant, to show cause why a *Quo Warranto* should not be issued against him, for illegally holding and exercising, the office of Sheriff of Marlborough District. The suggestion set forth the following grounds, upon which the motion was based.

1st. That two of the managers, who assumed to act as such, were not sworn, as required by law.

2nd. That the votes were counted on Monday, instead of the Wednesday, succeeding the election.

3d. That two thirds of the managers were not present as a Court, to hear and determine the grounds of contest, as required by the A. A. 1839.

The relator's motion was granted, and on the coming in of the respondent's answer, the following opinion was delivered by the Court, which contains all the facts necessary to be stated, for a proper understanding of the case.

EARLE J.

On the return of the rule, and the coming in of the respondent's answer, the grounds of objection to the validity of the election, seem to be, 1st. That a portion of the managers who conducted the election, and sat upon the trial of the contest, were not sworn: 2nd. That the managers counted the votes and declared the election, on a day different from that prescribed in the Act of 1839, viz. on the Monday after the election, instead of the Wednesday after; 3d. That the managers who composed the Court to try the contest, and who determined the question, did not constitute a majority of the whole number of managers in the District; therefore the Court was not legally constituted, had no jurisdiction, and their decision is a nullity.

1st. On the first ground, the facts admitted are, that J. W. B. a manager at Bruton's Fork, and C. B. a manager at Brownsville, were not sworn. At Bruton's Fork, the other two managers, who were qualified, held the election and sat upon the trial. At Brownsville, C. B. was the only manager who attended, one of the others being absent from the District, and the other having removed to a distant part of it. C. B. was not sworn, but opened and held the polls. There were fifty votes taken there, and the whole majority in favour of the respondent was eighty one; so that, in fact, if the whole number of votes taken at Brownsville, were deducted from the respondent's aggregate, as having been given against him, or as being illegal votes, yet he had a majority of thirty one votes. I think if the polls had not been opened there at all, as might have happened in case of the death, or illness, or removal of the managers, or any other casualty that would prevent their attendance, that the election would not, thereby, be rendered invalid. The presumption would be, that the persons qualified to vote there, would have gone elsewhere to vote. But when the whole number given there, are actually counted, and set down against the successful candidate, there is no good reason to impeach the election, for it is obvious that the result could not have been otherwise. But this ground was properly made before the Court of managers. It was an irregularity, which it was within their province to consider, and decide. They have decided upon the effect of it, and if the Court was properly constituted, their decision is final. To review it here, would be to listen to an appeal from their judgment, whilst the Act declares it to be conclusive.

2nd. The second objection is insufficient to overturn the election. The Act, or rather the provision of the Act, appointing the day on which the votes are to be counted, is merely directory. It is no essential part of the election

itself; and it would be very mischievous so to consider it. In that event, collusion among the managers might always defeat an election, which was likely to turn out against their wishes. Many accidents which are of frequent occurrence, might produce the same result, if such as to prevent the managers meeting on the day appointed. Here they were governed by the printed Act, which prescribes the next Monday as the day; and shall a mistake of the printer, or the engraving Clerk, have the effect of defeating an election clearly in favour of the respondent? The result in no way, or degree, depends upon the day of counting out, as the Court cannot change the votes—a day subsequent is properly fixed for the Court, in order to enable the unsuccessful candidate to ascertain and prepare his grounds of contest; and the managers would not be permitted to count on an earlier day, if it would have the effect, of preventing the party contesting from being heard. But when the day of the count is subsequent, arising wholly from mistake or from accident, the only effect is, to give the parties more time to prepare for the trial. I have fully considered this point before, in a case of Holman, Tax Collector of St. Matthews, which I heard last December; and I am very clear, that it is no ground of objection to the validity of the election.

3d. The third ground relates to the formation of the Court, and presents a question of more difficulty, which does involve the validity of the judgment pronounced by the managers in favour of the respondent, in virtue of which, he has obtained his commission, and now exercises the office. That portion of the Act which prescribes the mode of trial, contains this proviso—"provided, that the presence of at least two thirds of the managers, shall be necessary to try the question, and the vote of a majority present, shall be requisite to determine it."

There were twenty one managers for the District, of Marlborough, appointed by the resolution of 1839. The election was advertised before the December session of 1840; and came on the 2nd Monday in January 1841. Of those appointed in December 1839, one was dead, whose place was supplied by resolution in December 1840, but who probably received no notice of his appointment before the election. Two others were out of the District, but had not permanently removed eighteen managers in the District. Fourteen of the managers including C. B. opened and held the polls and thirteen managers, including both C. B. and J. W. B. attended the Court, and sat on the trial of the contest. The ground of objection is, that the Act requires two thirds of the whole number of managers appointed for the District, to try the contest. On mature and deliberate consideration, I am of a different opinion. The Act requires that notice be given to the several sets of managers to attend at their respective polls on the day appointed, who shall attend &c. It is well settled, that it does not require the whole number to attend, and hold the polls. Two out of the three, at each place would surely be enough. "The managers shall meet at the Court House of their District, on the Wednesday after the votes are received, and on the same day, count out the same, declare the election &c. What managers shall meet? Those, I apprehend, who held the election; and if there is no contest, of course their certificate would be enough; nor is it necessary, that all of those who held the election, should be present at the count. I apprehend a majority would be enough, where there is no contest. If any one desires to contest, he shall give notice in writing of his grounds, to the managers, on the day of the count. To what managers, shall he give notice?—Those again, who held the election, and who are assembled to count the votes. The proviso then declares, that two thirds of the members shall be necessary to try the question. Again it may be asked, two thirds of what managers? And the rational and obvious answer is, two thirds of those who held the election. It seems to me very clear, that a manager who had not been qualified, and who had not actually aided in holding the election, would not be competent to sit on the trial of the contest; and the construction contended for, would make it necessary always, that two thirds of the whole number should hold the election; and that every individual of them should be present at the count, and the trial; which in nine cases out of ten, would be likely to defeat the election. And this is a consideration of some weight, considering the great number of popular elections for District Officers, and the multitude of managers in many of the Districts. Of the eighteen managers left, after excluding the two who were absent from the District, and the one recently appointed, who are to be considered as having refused to serve, there were at least three others, J. W. B. and

C. B. and he who had removed from the neighborhood of his poll, who did not qualify. In fact, it was admitted, that the election was held by fourteen managers only, including C. B. of whom thirteen were properly qualified; of these twelve attended the count, and sat on the trial, exclusive of C. B. and J. W. B.—Under the former Acts, I think it is well settled, that a majority might hold the election, and a majority might hear and determine the contest. State vs. Delles-tine, State vs. Huggins. The act of 1839, has made no change as to the number of managers, which shall be necessary to hold the election. The same rule prevails now, that did then; and I am satisfied that in requiring two thirds to try the contest, the Legislature meant two thirds of those who were qualified, and held the election. All the reasoning of the Court, in Huggins' case, applies with equal force, to sustain this conclusion.

I can perceive nothing in any of the grounds, to authorize me to disturb this election, by making the rule absolute for a *Quo Warranto*. Even if the Court was not legally constituted, yet the election may have been regular, legal and valid; and it might have become necessary to compel the managers, by mandamus, to form themselves into a legal court, to hear and determine the question. But I do not perceive that judgment of ouster could be awarded, until it be shown that the election was void. I am of opinion on the case made, that the respondent was duly elected, that the election was legally ascertained and declared, and that the court was lawfully constituted. The motion on behalf of the relator, for the writ of *Quo Warranto*, is refused.

And it is considered by the court now here, that the rule to shew cause be discharged, and that the respondent do go thereof without day.

AGRICULTURAL.

ON DEEP FIRING.

By Mr. John Scott, V. S., Sildare, Ireland.

Being determined to test the truth of the assertion, that *deep firing* would produce destructive sloughing, and even death, and relying on the faithfulness of Mr. Turner's report of the operation, I fired a three-year-old black colt for a large splint, situated close to the knee, on the inside, and causing great lameness. I made three longitudinal incisions with the iron, at as near to a white heat as I could obtain it, quite through the skin, and extending the whole length of the tumor—the middle or central incision being the deepest, and penetrating to the periosteum, which I divided from end to end over the enlargement.

The operation was performed on the 18th of October 1839, the horse having been previously prepared by reducing his system to comparative weakness—his keep for four or five days consisting of bran mash and water supplied sparingly. I applied cold water to the wounds for twenty-four hours without ceasing; and occasionally until the fourth day when its use was discontinued. The horse was returned to his owner in a month, almost freed from lameness; and in the course of the following spring was put to posting at which work he continues. I have seen him repeatedly *pulling* (for such is his temper) heavy carriages over Mr. Mac-kadamized roads without any apparent inconvenience from his fired leg.

CASE II.—On the 3d of January, 1839, an eight-year old bay horse was brought to me very lame on the near foreleg, from broken down sinews, and perhaps diseased fetlock joint. The branches of the suspensory ligament were hard and thickened. I lowered the horse as in the former case, and fired him through the skin with a red hot iron, making four wounds, each seven inches in length—in front, in the rear of, and on each side of the fetlock joint. I took four quarts of blood from the jugular vein, and immediately commenced a fomentation with cold water, which was continued without interruption for three days. On the second night two quarts of blood were drawn from the plate vein. On the fourth day suppuration commenced and I then allowed my patient some hay.

The widest and deepest parts of the wounds measured as follows:—in front, three inches wide, one inch deep; on the outside, one inch wide, one inch deep, at the back two inches and a half wide, but scarcely more than skin deep; on the inside the wound did not separate widely.

The symptoms on the 6th day were copious suppuration, weak cough, sloughy effluvia from the wounds. I gave a diuretic ball, some hay, and bran mash.

On the 7th day there was dulness, and fatigue from standing. I allowed bran mash and hay.

8th day.—I increased his keep. He was observed to rest the fired leg in order to keep it relaxed, and only to stand upon it when the other fore leg was tired. The circumference of the inflamed leg, at the

thickest part of it, was sixteen inches; that of the sound one at the same part, namely, opposite the scissoid bones, ten inches.

9th day.—the fired leg was painful. It was often lifted, and held in the air—the pulse quickened—the feces in small quantity—the tips of the ears cold and moist, with a discharge of a gelatinous nature from the wounds. By the abstraction of one quart of blood from the jugular vein the action of heart became slower and slower and weaker. I gave him a purgung ball, and a mild diuretic at night, and fed him on mash only.

10th day.—The horse is easy—the pulse quiet—the leg not painful—the diuretic acting—no sign of purging—the tendon of the *extensor pedis* bare—the fired leg kept in a less relaxed position.

11th day. The horse has purged—fifty hours since the administration of the aloes. The leg straight, but not much leaped upon. Allowed hay, which he ate with avidity, but refused mashes.

On the 15th day, a slough of the *extensor pedis* five inches long, and thin, separated and was removed.

16th day. Allowed as much hay as he would eat, and bran mash—feces too dry and hot—pus from the wounds thinner and more lymphoid—limb fomented with warm water, with evident benefit.

18th day. The horse walked firmly upon the fired leg; white curd-like discharge from the nostrils, and cough. Allowed one feed of oats daily.

21st day. Condition improved. I fired him lightly for curb, and applied a blister.

22d day. Repeated the blister.

24th day. The horse labors under inflammation, and there are symptoms of colic. Bled to three quarts, gave four ounces of oil of turpentine, and one ounce of aloes in a ball, and repeated the dose of turpentine. It relieved him; but in about four hours the symptoms returned, and it was only by the administration of half a pint of turpentine and half an ounce of opium that relief was obtained. The horse was purged, and hot applications to the loins and abdomen were used during the affair with advantage.

It is unnecessary to enter further into the particulars of this case: let it suffice to say, that about the 1st of March he was sent to his owner, who soon after put him to farm work. In the beginning of May four months after the operation, I saw him. I had him taken from the harrow, and trotted. His lameness was not considerable, and his condition was improved. He was used as a post horse; but died of colic in the summer of the same year on his return from one of his stages.

In six other cases, and three of them of the hock, I fired through the skin, and found that, after the application of cold water, as described, four or five days, an ointment composed of Venice turpentine, sperraceti ointment, camphor, lard, and oil of origanum, would soften the skin, and promote suppuration and healthy granulations. Wherever fungus appeared, I applied muriate of antimony, or nitrate of silver. I have not had sufficient experience of the effects of the operation as a means of cure to be able to offer it to the profession with the confidence I rest assured Mr. Turner is justified in; and should these lines, as undoubtedly they will, meet his eye, I would take the opportunity of thanking him for the many benefits I have derived from his valuable contributions to your Journal. In the hope of seeing many successful cases of *deep firing* related in the pages of "The Veterinarian,"

I remain, &c.

The Veterinarian.

From the American Farmer.

ESSAY ON THE BEST MEANS OF RESTORING DETRIEVED LANDS, CAUSED BY IMPROVIDENT CULTIVATION.

[We have published two essays on this subject, which received the prizes offered for the best thereon. We have concluded that it is due to the writers of other essays than those to which the prizes were awarded, as well as to our readers, to publish the annexed and two others on file, as experiments and systems adapted to some portions of our country, are not applicable to others. Those which will follow the annexed, are from gentlemen in North Carolina and Georgia, the first of these an old and highly esteemed friend and correspondent.—They will shortly appear.]

MIDDLETOWN, Frederick County, }
March 11th, 1840.

Mr. Sands—In the late numbers of the American Farmer, you offered very valuable premiums for the best essays on several subjects, connected with the improvements of agriculture, &c. I cannot, sir, proceed without complimenting you upon the selection of valuable premiums with which you propose to reward the successful competitors. I have long thought, that, if instead of money, the Agricultural Societies would offer Agricultural books, Stock, Improved Implements, or fine varieties of fruit trees, their object in giving the premiums, and the interests of Agriculture generally would

be more promoted. There are many persons (competitors for prizes) who are either unwilling or unable to purchase valuable books, stock, &c., that would exert themselves to obtain them, were they offered as premiums. Considering the old editions of the American Farmer to contain more valuable information on the subject of agriculture than any work extant, I have long been desirous of obtaining it: but my limited means forbade the hope of ever doing it. Seeing that you offer it, and the volumes of the Farmer and Gardener, for the best essay on the improvement of such soils as have been deteriorated by improvident cultivation, suited to the states of Virginia, Maryland, and the Carolinas, I offer myself as a candidate. You have indeed presented an ample field for commenting on. A person in looking over the exhausted tracts of land contained in those States, will be forcibly reminded of an anecdote of an Ex-Governor of Maryland, who is an excellent farmer. Being upon a Jury valuing the land which the Washington Branch of the Baltimore and Ohio Rail Road was about passing through, and being in one of the poorest tracts of that very poor country, he turned to some of the farmers who were present, and observed,—"Gentlemen, your forefathers appear to have taken the cream off your soil, and left you the skim milk. But I hazard the bold assertion, that there is not a single acre of *this land*, but what can be improved so as to be worth an interest of \$200 per acre annually." The Farmers who are settled upon these tracts will doubtless look incredulous, and ask, how can this be done? I answer briefly, by saying, good cultivation: in this is embraced, manuring, draining, and a proper rotation of crops. I will begin with the first of these items, and make such remarks as reason and experience will justify.

Manuring.—There are few, if any districts in those States, but what possess resources in themselves that may be applied to the improvement of the soil; for instance, lime and marl exist in abundance; but these, particularly the former, act as stimulants, and there is more need of animal and vegetable manure to supply those properties which had management has exhausted. Doubtless every farmer knows that animal manure will improve the soil, but will ask how it can be obtained in sufficient quantities. This I will try to answer directly. In the interim, let them follow the injunction of that excellent farmer, William West: if you cannot make ten acres good, make five; if not five, make one—at any rate, whatever you do, let it be done well. This I well know will be a slow way of improving large farms; but let those parts of it that you cannot manure in this way, be improved by ploughing in green crops.—Clover, oats, Indian corn, and buckwheat, are the principal crops that are used for this purpose. Of these clover ranks first; but there is much land too poor to bring it in sufficient quantities to do any good. Such lands should be ploughed as early as possible in the spring, and sown with oats, at the rate of two and a half bushels to the acre; when the straw is turning towards maturity, they should be turned in with a chain prefixed before the share of the plough, and another crop of oats, or buckwheat, turned in before frost. If the ground be very poor, this process ought to be repeated another season, or Indian corn may be turned in, and lime spread at the rate of 50 bushels to the acre, if shell, or 25, if stone lime. I think this quantity is best for land that has never been limed, but the application must be repeated in three or four years; at any time, 50 bushels is quite sufficient for ten years. After ploughing in the last crop of green manure, and applying lime, you may sow wheat, or oats and clover in the spring. I think the oats best, for the green crop is apt to make land too spongy and light rendering it more liable to be thrown out by the frosts. If the farmer thinks he ought to have more from the land to repay him for his labor and expense, he can put it in corn, and then in grain clover.—Those who live in pine districts, can add much to the fertility of the soil, by cutting small branches of the green pine, and ploughing them in, or what is better, putting them thick upon the surface of the land, and letting them remain two years, or until the leaves fall, and then plough them in. Cedar will answer, but not as well. As a general rule, shading land is always beneficial. The cow pea is also used, but I am not much acquainted with it. Before proceeding further, I will state the best means of making and applying manure. There are few farmers conscious of the quantity of manure that may be made with a little extra attention. 1st. Make your barnyard upon level ground if possible; the bottom of stiff compact soil, if not naturally so, it should be made so: let it be covered six inches thick with good soil, such as contains grass roots, and other vegetable matter, is the best—that from swampy ground, is very good. Let leaves be hauled and spread over—feed your cattle on this from November until May, if you have food sufficient. In good land there is always a quantity of rag weed which comes up after wheat and rye. This, if cut when green, and hauled to the yard will make a large quantity of excellent manure by the ensuing spring. All weeds

should be cut before going to seed, and put in the yard to rot; let your yard be concave so as to prevent the liquid from escaping. In case of much rain, and the yard becoming flooded, more leaves or straw should be added, and some good mould occasionally. All hog-pens should have a yard proportionate to the number of hogs. Let this be well supplied with weeds, leaves, potato tops, &c., and with a few loads of soil; you may, if you think proper, add the long straw manure from your horse stable. To make hogs root, scatter a little corn over the yard occasionally. This will be the best manure made upon your farm.—Those who keep sheep, can make a great deal of manure by simply making a pen in their pasture, under a tree where they resort for shade; keep the bottom covered with leaves or straw; when the pen gets foul, scatter a few loads of soil over it, to keep it sweet your sheep will resort to it in warm weather five or six hours during the heat of the day, and when the weather becomes cooler, you can drive them in at night.—The pen may be made in the fashion of worm fences. This will add to your manure heap considerably, without much labor or expense. Sheep manure is one of the best, but it is generally lost to those farmers who let their sheep run out. Here is also another plan, which the most of farmers neglect, viz: Dig a hole in some place convenient to, but out of sight of the house; let this be filled with the rubbish, old grass, dust, &c. that is constantly collecting about your out-houses, yard and garden, the manure of fowls, scrapings of the wood-yard, &c.: to these may be added the hair that is scraped from your hogs in killing, which is an excellent manure.—When you have your hole filled, pour on all your old soap suds, dirty water, chamber-ley, &c. By this means a large quantity of excellent compost can be procured, which apply to your grain and grass. If lime can be obtained, a fine compost may be made as follows: Collect dirt from your ditches, road-sides, banks made in ploughing, and in fact any thing that contains vegetable matter—make this into a flat heap, and add lime, fresh from the kiln, in the proportion of 25 bushels to 100 loads of soil. To the above may be added all kinds of weeds. This will be found as effective as stable manure. **Application.**—There are many different opinions as to the state in which manure should be applied—whether in a fermented or unfermented state; ploughed in or put upon the surface. I will briefly state my own experience: All calcareous substances have a tendency to sink; therefore they should be applied on, as near the top of the soil as possible. I will remark, that lime should never be applied to a soil destitute of vegetable matter, except in form of compost with earth; it may be applied as ameliorator of the soil; in this case it should be applied three or four years before ploughing. If the soil is stiff, I would apply it in an unfermented state, ploughed under for corn or potatoes; to be ploughed to the surface as soon as the crop is taken off. This method will afford the soil an opportunity of imbuing all the gas, at the same time preventing the liquid from sinking. If the ground be light and sandy, the manure should be applied to the soil in a state called much, or about three-fourths fermented; without the sub-soil is very compact, the liquid will sink and the effects will last but a short time. If the manure is left in the yard whilst fermenting, it should be covered with soil. I have perhaps taken up too much time on the subject of manure, but as it is the most important to the farmer of poor soils, I hope I shall be excused.

Deep Ploughing.—This is absolutely necessary to make farming profitable for any length of time, how- ever rich the ground may be; plants can never arrive at perfection unless the soil is deep and loose—I do not mean that the ground should be trench ploughed at once, (as some writers recommend,) as that would back the improvement many years; but let the farmer increase the depth of the soil, as the means of improvement increase.

Draining.—I do not mean to enter into a full description of this indispensable process, but shall make a few remarks to convince those who have wet soil, and wish to improve it, of the necessity of draining. There is much land on many farms, which, if well drained, would double their original value. No manure will be found to act very effectively if the soil or sub-soil contains too much water. Many farmers think draining necessary only upon swampy or marsh land, where the water is apparent; but there are many other soils which it would benefit much, viz: a persimmon soil. The latter part of July and the month of August is generally the most suitable time for the purpose, both as it regards leisure time and the ground being in a suitable condition. If the ground is so level that you cannot find the lowest part to conduct your drain through, a Surveyor ought to be employed. Covered drains are generally the best, though at first the most expensive. Stone is the best for the purposes of the common farmer; where it cannot be obtained, brush. Draining file is better than either of these, but it is more expensive, and harder to be obtained. A full description of the best modes of draining, can be found in the American Farmer, Cultivator, or any other agricultural periodical.